

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 800

Introduced by Ashford, 20.

Read first time January 08, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to children; to amend sections 24-313,  
2 25-2728, 29-2258, 29-2269, 43-246, 43-247, 43-248,  
3 43-251.01, 43-253, 43-254, 43-258, 43-278, 43-281,  
4 43-285, 43-2,106.01, 43-2,129, 43-403, 43-406, 43-413,  
5 43-415, 43-2404.02, 77-3442, 79-209, 79-210, 79-527,  
6 and 79-2111, Reissue Revised Statutes of Nebraska,  
7 and sections 43-245, 43-250, and 79-2104, Revised  
8 Statutes Supplement, 2009; to eliminate juvenile review  
9 panels, expedite appeals, provide for civil citations,  
10 change evaluation, detention, and placement provisions,  
11 provide plenary jurisdiction over parents, guardians,  
12 and custodians, and provide for videoconference hearings  
13 under the Nebraska Juvenile Code; to change detention  
14 and evaluation provisions under the Health and Human

1 Services, Office of Juvenile Services Act; to provide a  
2 duty for the Supreme Court; to change County Juvenile  
3 Services Aid Program provisions; to change school truancy  
4 provisions, use of a learning community levy, and  
5 school reporting; to create and provide duties for a  
6 task force; to provide powers and duties for learning  
7 community coordinating councils relating to re-engagement  
8 of students into the educational system; to harmonize  
9 provisions; to repeal the original sections; and to  
10 outright repeal sections 43-287.01, 43-287.02, 43-287.03,  
11 43-287.04, 43-287.05, and 43-287.06, Reissue Revised  
12 Statutes of Nebraska.

13 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 24-313, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           24-313 The district court may by rule compel an inferior  
4 court or board to allow an appeal or to make or amend records  
5 according to law either by correcting an evident mistake or  
6 supplying an evident omission. This section shall not apply ~~to~~  
7 ~~cases in which a review by a juvenile review panel may be requested~~  
8 ~~under sections 43-287.01 to 43-287.06 or~~ if the Administrative  
9 Procedure Act otherwise provides.

10          Sec. 2. Section 25-2728, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12          25-2728 (1) Any party in a civil case and any defendant  
13 in a criminal case may appeal from the final judgment or final  
14 order of the county court to the district court of the county where  
15 the county court is located. In a criminal case, a prosecuting  
16 attorney may obtain review by exception proceedings pursuant to  
17 sections 29-2317 to 29-2319.

18          (2) Sections 25-2728 to 25-2738 shall not apply to:

19           (a) Appeals in eminent domain proceedings as provided in  
20 sections 76-715 to 76-723;

21           (b) Appeals in proceedings in the county court sitting as  
22 a juvenile court as provided in sections ~~43-287.01 to 43-287.06,~~  
23 ~~43-2,106,~~ and 43-2,106.01;

24           (c) Appeals in matters arising under the Nebraska Probate  
25 Code as provided in section 30-1601;

1 (d) Appeals in matters arising under the Nebraska Uniform  
2 Trust Code;

3 (e) Appeals in adoption proceedings as provided in  
4 section 43-112;

5 (f) Appeals in inheritance tax proceedings as provided in  
6 section 77-2023; and

7 (g) Appeals in domestic relations matters as provided in  
8 section 25-2739.

9 Sec. 3. Section 29-2258, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 29-2258 A district probation officer shall:

12 (1) Conduct juvenile intake interviews and investigations  
13 in accordance with section 43-253 utilizing a standardized juvenile  
14 detention screening instrument described in section 43-260.01;

15 (2) Make presentence and other investigations, as may be  
16 required by law or directed by a court in which he or she is  
17 serving;

18 (3) Supervise probationers in accordance with the rules  
19 and regulations of the office and the directions of the sentencing  
20 court;

21 (4) Advise the sentencing court, in accordance with  
22 the Nebraska Probation Administration Act and such rules and  
23 regulations of the office, of violations of the conditions of  
24 probation by individual probationers;

25 (5) Advise the sentencing court, in accordance with the

1 rules and regulations of the office and the direction of the court,  
2 when the situation of a probationer may require a modification of  
3 the conditions of probation or when a probationer's adjustment is  
4 such as to warrant termination of probation;

5 (6) Provide each probationer with a statement of the  
6 period and conditions of his or her probation;

7 (7) Whenever necessary, exercise the power of arrest  
8 or temporary custody as provided in section sections 29-2266 and  
9 43-248;

10 (8) Establish procedures for the direction and guidance  
11 of deputy probation officers under his or her jurisdiction and  
12 advise such officers in regard to the most effective performance of  
13 their duties;

14 (9) Supervise and evaluate deputy probation officers  
15 under his or her jurisdiction;

16 (10) Delegate such duties and responsibilities to a  
17 deputy probation officer as he or she deems appropriate;

18 (11) Make such reports as required by the administrator,  
19 the judges of the probation district in which he or she serves, or  
20 the Supreme Court;

21 (12) Keep accurate and complete accounts of all money or  
22 property collected or received from probationers and give receipts  
23 therefor;

24 (13) Cooperate fully with and render all reasonable  
25 assistance to other probation officers;

1           (14) In counties with a population of less than  
2 twenty-five thousand people, participate in pretrial diversion  
3 programs established pursuant to sections 29-3601 to 29-3604  
4 and juvenile pretrial diversion programs established pursuant  
5 to sections 43-260.02 to 43-260.07 as requested by judges of  
6 the probation district in which he or she serves, except that  
7 participation in such programs shall not require appointment of  
8 additional personnel and shall be consistent with the probation  
9 officer's current caseload;

10           (15) Participate, at the direction of the probation  
11 administrator pursuant to an interlocal agreement which meets the  
12 requirements of section 29-2255, in non-probation-based programs  
13 and services;

14           (16) Perform such other duties not inconsistent with the  
15 Nebraska Probation Administration Act or the rules and regulations  
16 of the office as a court may from time to time direct; and

17           (17) Exercise all powers and perform all duties necessary  
18 and proper to carry out his or her responsibilities.

19           Sec. 4. (1) For purposes of this section:

20           (a) Administrative sanction means additional probation  
21 requirements imposed upon a juvenile subject to the supervision  
22 of a probation officer by his or her probation officer, with the  
23 full knowledge and consent of such juvenile and such juvenile's  
24 parents or guardian, designed to hold such juvenile accountable  
25 for substance abuse or status offense violations of conditions of

- 1 probation, including:
- 2 (i) Counseling or reprimand by his or her probation  
3 officer;
- 4 (ii) Increased supervision contact requirements;
- 5 (iii) Increased substance abuse testing;
- 6 (iv) Referral for substance abuse or mental health  
7 evaluation or other specialized assessment, counseling, or  
8 treatment;
- 9 (v) Imposition of a designated curfew for a period not to  
10 exceed thirty days;
- 11 (vi) Community service for a specified number of hours  
12 pursuant to sections 29-2277 to 29-2279;
- 13 (vii) Travel restrictions to stay within his or her  
14 residence or county of residence or employment unless otherwise  
15 permitted by the supervising probation officer;
- 16 (viii) Restructuring court-imposed financial obligations  
17 to mitigate their effect on the juvenile subject to the supervision  
18 of a probation officer; and
- 19 (ix) Implementation of educational or cognitive  
20 behavioral programming;
- 21 (b) Noncriminal violation means activities or behaviors  
22 of a juvenile subject to the supervision of a probation officer  
23 which create the opportunity for re-offending or which diminish the  
24 effectiveness of probation supervision resulting in a violation of  
25 an original condition of probation, including:

- 1           (i) Moving traffic violations;
- 2           (ii) Failure to report to his or her probation officer;
- 3           (iii) Leaving the juvenile's residence, jurisdiction of  
4 the court, or the state without the permission of the court or his  
5 or her probation officer;
- 6           (iv) Failure to regularly attend school, vocational  
7 training, other training, counseling, treatment, programming, or  
8 employment;
- 9           (v) Noncompliance with school rules;
- 10          (vi) Continued violations of home rules;
- 11          (vii) Failure to notify his or her probation officer of  
12 change of address, school, or employment;
- 13          (viii) Frequenting places where controlled substances are  
14 illegally sold, used, distributed, or administered and association  
15 with persons engaged in illegal activity;
- 16          (ix) Failure to perform community service as directed;
- 17          (x) Curfew or electronic monitoring violations; and
- 18          (xi) Failure to report for alcohol or drug testing; and
- 19          (c) Substance abuse violation means activities or  
20 behaviors of a juvenile subject to the supervision of a probation  
21 officer associated with the use of chemical substances or related  
22 treatment services resulting in a violation of an original  
23 condition of probation, including:
- 24           (i) Positive breath test for the consumption of alcohol;
- 25           (ii) Positive urinalysis for the illegal use of drugs;

1           (iii) Failure to report for alcohol testing or drug  
2 testing;

3           (iv) Failure to appear for or complete substance abuse  
4 or mental health treatment evaluations or inpatient or outpatient  
5 treatment; and

6           (v) Tampering with alcohol or drug testing.

7           (2) Whenever a probation officer has reasonable cause to  
8 believe that a juvenile subject to the supervision of a probation  
9 officer has committed or is about to commit a substance abuse  
10 violation or noncriminal violation while on probation, but that  
11 such juvenile will not attempt to leave the jurisdiction and will  
12 not place lives or property in danger, the probation officer shall  
13 either:

14           (a) Impose one or more administrative sanctions with the  
15 approval of his or her chief probation officer or such chief's  
16 designee. The decision to impose administrative sanctions in lieu  
17 of formal revocation proceedings rests with the probation officer  
18 and his or her chief probation officer or such chief's designee  
19 and shall be based upon such juvenile's risk level, the severity  
20 of the violation, and the juvenile's response to the violation.  
21 If administrative sanctions are to be imposed, such juvenile shall  
22 acknowledge in writing the nature of the violation and agree  
23 upon the administrative sanction with approval of such juvenile's  
24 parents or guardian. Such juvenile has the right to decline to  
25 acknowledge the violation, and if he or she declines to acknowledge

1 the violation, the probation officer shall submit a written report  
2 pursuant to subdivision (2)(b) of this section. A copy of the  
3 report shall be submitted to the county attorney of the county  
4 where probation was imposed; or

5 (b) Submit a written report to the adjudicating court  
6 with a copy to the county attorney of the county where probation  
7 was imposed, outlining the nature of the probation violation and  
8 request that formal revocation proceedings be instituted against  
9 the juvenile subject to the supervision of a probation officer.

10 (3) Whenever a probation officer has reasonable cause to  
11 believe that a juvenile subject to the supervision of a probation  
12 officer has violated or is about to violate a condition of  
13 probation other than a substance abuse violation or noncriminal  
14 violation and that such juvenile will not attempt to leave the  
15 jurisdiction and will not place lives or property in danger, the  
16 probation officer shall submit a written report to the adjudicating  
17 court, with a copy to the county attorney of the county where  
18 probation was imposed, outlining the nature of the probation  
19 violation.

20 (4) Whenever a probation officer has a reasonable cause  
21 to believe that a juvenile subject to the supervision of a  
22 probation officer has violated or is about to violate a condition  
23 of his or her probation and that such juvenile will attempt to  
24 leave the jurisdiction or will place lives or property in danger,  
25 the probation officer shall take such juvenile into temporary

1 custody without a warrant as provided in section 43-248 and may  
2 call on any peace officer for assistance.

3 (5) Immediately after detention pursuant to subsection  
4 (4) of this section, the probation officer shall notify the county  
5 attorney of the county where probation was imposed and submit  
6 a written report of the reason for such detention and of any  
7 violation of probation. After prompt consideration of the written  
8 report, the county attorney shall:

9 (a) Order the release of the juvenile from confinement  
10 subject to the supervision of a probation officer; or

11 (b) File with the adjudicating court a motion or  
12 information to revoke the probation.

13 (6) Whenever a county attorney receives a report from a  
14 probation officer that a juvenile subject to the supervision of a  
15 probation officer has violated a condition of probation, the county  
16 attorney may file a motion or information to revoke probation.

17 (7) The probation administrator shall adopt and  
18 promulgate rules and regulations to carry out this section.

19 Sec. 5. Section 29-2269, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 29-2269 Sections 29-2246 to 29-2269 and section 4 of this  
22 act shall be known and may be cited as the Nebraska Probation  
23 Administration Act.

24 Sec. 6. (1) A peace officer, upon making contact with a  
25 juvenile whom the peace officer has reasonable grounds to believe

1 has committed a misdemeanor offense, may issue the juvenile a civil  
2 citation.

3 (2) The civil citation shall include: The juvenile's  
4 name, address, school of attendance, and contact information;  
5 contact information for the juvenile's parents or guardian; a  
6 description of the misdemeanor offense believed to have been  
7 committed; the juvenile assessment center or diversion office where  
8 the juvenile cited is to appear within seventy-two hours after  
9 the issuance of the civil citation; and a warning that failure  
10 to appear in accordance with the command of the civil citation or  
11 failure to provide the information necessary for the peace officer  
12 to complete the civil citation will result in the juvenile being  
13 taken into temporary custody as provided in section 43-253.

14 (3) At the time of issuance of a civil citation by the  
15 peace officer, the peace officer shall advise the juvenile that the  
16 juvenile has the option to refuse the civil citation and be taken  
17 directly into temporary custody as provided in section 43-253.  
18 The option to refuse the civil citation may be exercised at any  
19 time prior to compliance with any services required pursuant to  
20 subsection (5) of this section.

21 (4) Upon issuing a civil citation, the peace officer  
22 shall provide or send a copy of the civil citation to the  
23 appropriate county attorney, juvenile assessment center or  
24 diversion office, parents or guardian of the juvenile, and the  
25 victim, if any.

1           (5) The juvenile shall report to the juvenile assessment  
2 center or diversion office as instructed by the citation. The  
3 juvenile assessment center or diversion office may require the  
4 juvenile to participate in community service or other available  
5 services appropriate to the needs of the juvenile identified by the  
6 juvenile assessment center or diversion office which may include  
7 family counseling, urinalysis monitoring, or substance abuse and  
8 mental health treatment services.

9           (6) If the juvenile fails to comply with any services  
10 required pursuant to subsection (5) of this section or if the  
11 juvenile is issued a third or subsequent civil citation, a peace  
12 officer shall take the juvenile into temporary custody as provided  
13 in section 43-253.

14           Sec. 7. To achieve uniformity, the Supreme Court shall  
15 prescribe the form of a civil citation which conforms to the  
16 requirements for a civil citation in section 6 of this act and such  
17 other matter as the court deems appropriate. The civil citation  
18 shall not include a place for the cited juvenile's social security  
19 number.

20           Sec. 8. Section 43-245, Revised Statutes Supplement,  
21 2009, is amended to read:

22           43-245 For purposes of the Nebraska Juvenile Code, unless  
23 the context otherwise requires:

24           (1) Age of majority means nineteen years of age;

25           (2) Approved center means a center that has applied for

1 and received approval from the Director of the Office of Dispute  
2 Resolution under section 25-2909;

3 (3) Cost or costs means (a) the sum or equivalent  
4 expended, paid, or charged for goods or services, or expenses  
5 incurred, or (b) the contracted or negotiated price;

6 (4) Civil citation means a noncriminal notice which  
7 cannot result in a criminal record and is described in section 6 of  
8 this act;

9 ~~(4)~~ (5) Criminal street gang means a group of three or  
10 more people with a common identifying name, sign, or symbol whose  
11 group identity or purposes include engaging in illegal activities;

12 ~~(5)~~ (6) Criminal street gang member means a person who  
13 willingly or voluntarily becomes and remains a member of a criminal  
14 street gang;

15 ~~(6)~~ (7) Juvenile means any person under the age of  
16 eighteen;

17 ~~(7)~~ (8) Juvenile court means the separate juvenile court  
18 where it has been established pursuant to sections 43-2,111 to  
19 43-2,127 and the county court sitting as a juvenile court in all  
20 other counties. Nothing in the Nebraska Juvenile Code shall be  
21 construed to deprive the district courts of their habeas corpus,  
22 common-law, or chancery jurisdiction or the county courts and  
23 district courts of jurisdiction of domestic relations matters as  
24 defined in section 25-2740;

25 ~~(8)~~ (9) Juvenile detention facility has the same meaning

1 as in section 83-4,125;

2 ~~(9)~~ (10) Mediator for juvenile offender and victim  
3 mediation means a person who (a) has completed at least thirty  
4 hours of training in conflict resolution techniques, neutrality,  
5 agreement writing, and ethics set forth in section 25-2913, (b) has  
6 an additional eight hours of juvenile offender and victim mediation  
7 training, and (c) meets the apprenticeship requirements set forth  
8 in section 25-2913;

9 ~~(10)~~ (11) Mental health facility means a treatment  
10 facility as defined in section 71-914 or a government, private, or  
11 state hospital which treats mental illness;

12 ~~(11)~~ (12) Nonoffender means a juvenile who is subject  
13 to the jurisdiction of the juvenile court for reasons other  
14 than legally prohibited conduct, including, but not limited to,  
15 juveniles described in subdivision (3) (a) of section 43-247;

16 ~~(12)~~ (13) Nonsecure detention means detention  
17 characterized by the absence of restrictive hardware, construction,  
18 and procedure. Nonsecure detention services may include a range  
19 of placement and supervision options, such as home detention,  
20 electronic monitoring, day reporting, drug court, tracking and  
21 monitoring supervision, staff secure and temporary holdover  
22 facilities, and group homes;

23 ~~(13)~~ (14) Parent means one or both parents or a  
24 stepparent when such stepparent is married to the custodial parent  
25 as of the filing of the petition;

1           ~~(14)~~ (15) Parties means the juvenile as described in  
2 section 43-247 and his or her parent, guardian, or custodian;

3           ~~(15)~~ (16) Except in proceedings under the Nebraska Indian  
4 Child Welfare Act, relative means father, mother, grandfather,  
5 grandmother, brother, sister, stepfather, stepmother, stepbrother,  
6 stepsister, uncle, aunt, first cousin, nephew, or niece;

7           ~~(16)~~ (17) Secure detention means detention in a highly  
8 structured, residential, hardware-secured facility designed to  
9 restrict a juvenile's movement;

10          ~~(17)~~ (18) Status offender means a juvenile who has been  
11 charged with or adjudicated for conduct which would not be a crime  
12 if committed by an adult, including, but not limited to, juveniles  
13 charged under subdivision (3)(b) of section 43-247 and sections  
14 53-180.01 and 53-180.02; and

15          ~~(18)~~ (19) Traffic offense means any nonfelonious act in  
16 violation of a law or ordinance regulating vehicular or pedestrian  
17 travel, whether designated a misdemeanor or a traffic infraction.

18           Sec. 9. Section 43-246, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           43-246 Acknowledging the responsibility of the juvenile  
21 court to act to preserve the public peace and security, the  
22 Nebraska Juvenile Code shall be construed to effectuate the  
23 following:

24           (1) To assure the rights of all juveniles to care  
25 and protection and a safe and stable living environment and to

1 development of their capacities for a healthy personality, physical  
2 well-being, and useful citizenship and to protect the public  
3 interest;

4 (2) To provide for the intervention of the juvenile court  
5 in the interest of any juvenile who is within the provisions of  
6 the Nebraska Juvenile Code, with due regard to parental rights and  
7 capacities and the availability of nonjudicial resources;

8 (3) To remove juveniles who are within the Nebraska  
9 Juvenile Code from the criminal justice system whenever possible  
10 and to reduce the possibility of their committing future law  
11 violations through the provision of social and rehabilitative  
12 services to such juveniles and their ~~families,~~ parents, guardians,  
13 or custodians;

14 (4) To require the parents, guardians, or custodians  
15 to participate in the therapeutic services necessary for the  
16 rehabilitation of the juvenile;

17 ~~(4)~~ (5) To offer selected juveniles the opportunity to  
18 take direct personal responsibility for their individual actions by  
19 reconciling with the victims through juvenile offender and victim  
20 mediation and fulfilling the terms of the resulting agreement which  
21 may require restitution and community service;

22 ~~(5)~~ (6) To achieve the purposes of subdivisions (1)  
23 through (3) of this section in the juvenile's own home whenever  
24 possible, separating the juvenile from his or her parent when  
25 necessary for his or her welfare, the juvenile's health and safety

1 being of paramount concern, or in the interest of public safety  
2 and, when temporary separation is necessary, to consider the  
3 developmental needs of the individual juvenile in all placements,  
4 to consider relatives as a preferred potential placement resource,  
5 and to make reasonable efforts to preserve and reunify the family  
6 if required under section 43-283.01;

7 ~~(6)~~ (7) To promote adoption, guardianship, or other  
8 permanent arrangements for children in the custody of the  
9 Department of Health and Human Services who are unable to return  
10 home;

11 ~~(7)~~ (8) To provide a judicial procedure through which  
12 these purposes and goals are accomplished and enforced in which the  
13 parties are assured a fair hearing and their constitutional and  
14 other legal rights are recognized and enforced; and

15 ~~(8)~~ (9) To assure compliance, in cases involving Indian  
16 children, with the Nebraska Indian Child Welfare Act; and-

17 (10) To make any temporary placement of a juvenile in the  
18 least restrictive environment consistent with the best interests of  
19 the juvenile and the safety of the community.

20 Sec. 10. Section 43-247, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 43-247 The juvenile court shall have exclusive original  
23 jurisdiction as to any juvenile defined in subdivision (1) of this  
24 section who is under the age of sixteen, as to any juvenile defined  
25 in subdivision (3) of this section, and as to the parties and

1 proceedings provided in subdivisions (5), (6), and (8) of this  
2 section. As used in this section, all references to the juvenile's  
3 age shall be the age at the time the act which occasioned the  
4 juvenile court action occurred. The juvenile court shall have  
5 concurrent original jurisdiction with the district court as to any  
6 juvenile defined in subdivision (2) of this section. The juvenile  
7 court shall have concurrent original jurisdiction with the district  
8 court and county court as to any juvenile defined in subdivision  
9 (1) of this section who is age sixteen or seventeen, any juvenile  
10 defined in subdivision (4) of this section, and any proceeding  
11 under subdivision (7) or (11) of this section. The juvenile court  
12 shall have concurrent original jurisdiction with the county court  
13 as to any proceeding under subdivision (9) or (10) of this section.  
14 Notwithstanding any disposition entered by the juvenile court  
15 under the Nebraska Juvenile Code, the juvenile court's jurisdiction  
16 over any individual adjudged to be within the provisions of this  
17 section shall continue until the individual reaches the age of  
18 majority or the court otherwise discharges the individual from its  
19 jurisdiction.

20           The juvenile court in each county as herein provided  
21 shall have jurisdiction of:

22           (1) Any juvenile who has committed an act other than  
23 a traffic offense which would constitute a misdemeanor or an  
24 infraction under the laws of this state, or violation of a city or  
25 village ordinance;

1           (2) Any juvenile who has committed an act which would  
2 constitute a felony under the laws of this state;

3           (3) Any juvenile (a) who is homeless or destitute, or  
4 without proper support through no fault of his or her parent,  
5 guardian, or custodian; who is abandoned by his or her parent,  
6 guardian, or custodian; who lacks proper parental care by reason of  
7 the fault or habits of his or her parent, guardian, or custodian;  
8 whose parent, guardian, or custodian neglects or refuses to provide  
9 proper or necessary subsistence, education, or other care necessary  
10 for the health, morals, or well-being of such juvenile; whose  
11 parent, guardian, or custodian is unable to provide or neglects  
12 or refuses to provide special care made necessary by the mental  
13 condition of the juvenile; or who is in a situation or engages  
14 in an occupation dangerous to life or limb or injurious to the  
15 health or morals of such juvenile, (b) who, by reason of being  
16 wayward or habitually disobedient, is uncontrolled by his or her  
17 parent, guardian, or custodian; who departs himself or herself  
18 so as to injure or endanger seriously the morals or health of  
19 himself, herself, or others; or who is habitually truant from home  
20 or school, or (c) who is mentally ill and dangerous as defined in  
21 section 71-908;

22           (4) Any juvenile who has committed an act which would  
23 constitute a traffic offense as defined in section 43-245;

24           (5) The parent, guardian, or custodian of any juvenile  
25 described in this section, including the jurisdiction to require

1 the parent, guardian, or custodian to participate in the  
2 therapeutic services necessary for the rehabilitation of the  
3 juvenile;

4 (6) The proceedings for termination of parental rights as  
5 provided in the Nebraska Juvenile Code;

6 (7) The proceedings for termination of parental rights as  
7 provided in section 42-364;

8 (8) Any juvenile who has been voluntarily relinquished,  
9 pursuant to section 43-106.01, to the Department of Health and  
10 Human Services or any child placement agency licensed by the  
11 Department of Health and Human Services;

12 (9) Any juvenile who was a ward of the juvenile court at  
13 the inception of his or her guardianship and whose guardianship has  
14 been disrupted or terminated;

15 (10) The adoption or guardianship proceedings for a  
16 child over which the juvenile court already has jurisdiction under  
17 another provision of the Nebraska Juvenile Code; and

18 (11) The paternity or custody determination for a child  
19 over which the juvenile court already has jurisdiction.

20 Notwithstanding the provisions of the Nebraska Juvenile  
21 Code, the determination of jurisdiction over any Indian child as  
22 defined in section 43-1503 shall be subject to the Nebraska Indian  
23 Child Welfare Act; and the district court shall have exclusive  
24 jurisdiction in proceedings brought pursuant to section 71-510.

25 Sec. 11. Section 43-248, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-248 A juvenile may be taken into temporary custody by  
3 any peace officer without a warrant or order of the court when:

4 (1) A juvenile has violated a state law or municipal  
5 ordinance in the presence of the officer;

6 (2) A felony has been committed and the officer has  
7 reasonable grounds to believe such juvenile committed it;

8 (3) A juvenile is seriously endangered in his or her  
9 surroundings and immediate removal appears to be necessary for the  
10 juvenile's protection;

11 (4) The officer believes the juvenile to be mentally  
12 ill and dangerous as defined in section 71-908 and that the harm  
13 described in that section is likely to occur before proceedings may  
14 be instituted before the juvenile court; ~~or~~

15 (5) There are reasonable grounds to believe that the  
16 juvenile has run away from his or her parent, guardian, or  
17 custodian; or-

18 (6) A probation officer has reasonable cause to believe  
19 that a juvenile subject to the supervision of a probation officer  
20 has violated or is about to violate a condition of his or  
21 her probation and that such juvenile will attempt to leave the  
22 jurisdiction or will place lives or property in danger.

23 Sec. 12. Section 43-250, Revised Statutes Supplement,  
24 2009, is amended to read:

25 43-250 A peace officer who takes a juvenile into

1 temporary custody under section 29-401 or 43-248 or pursuant  
2 to a legal warrant of arrest shall immediately take reasonable  
3 measures to notify the juvenile's parent, guardian, custodian, or  
4 relative and shall proceed as follows:

5 (1) The peace officer shall release such juvenile;

6 (2) The peace officer shall prepare in triplicate a  
7 written notice requiring the juvenile to appear before the juvenile  
8 court of the county in which such juvenile was taken into custody  
9 at a time and place specified in the notice or at the call of the  
10 court. The notice shall also contain a concise statement of the  
11 reasons such juvenile was taken into custody. The peace officer  
12 shall deliver one copy of the notice to such juvenile and require  
13 such juvenile or his or her parent, guardian, other custodian,  
14 or relative, or both, to sign a written promise that such signer  
15 will appear at the time and place designated in the notice. Upon  
16 the execution of the promise to appear, the peace officer shall  
17 immediately release such juvenile. The peace officer shall, as  
18 soon as practicable, file one copy of the notice with the county  
19 attorney and, when required by the juvenile court, also file a copy  
20 of the notice with the juvenile court or the officer appointed by  
21 the court for such purpose;

22 (3) While retaining temporary custody, the peace officer  
23 shall communicate all relevant available information regarding such  
24 juvenile to the probation officer and shall deliver the juvenile,  
25 if necessary, to the probation officer. The probation officer shall

1 determine the need for detention of the juvenile as provided in  
2 section 43-260.01. Upon determining that the juvenile should be  
3 placed in a secure or nonsecure placement and securing placement  
4 in such secure or nonsecure setting by the probation officer, the  
5 peace officer shall implement the probation officer's decision to  
6 release or to detain and place the juvenile. When secure detention  
7 of a juvenile is necessary, such detention shall occur within a  
8 juvenile detention facility except:

9 (a) When a juvenile described in subdivision (1) or  
10 (2) of section 43-247, except for a status offender, is taken  
11 into temporary custody within a metropolitan statistical area and  
12 where no juvenile detention facility is reasonably available, the  
13 juvenile may be delivered, for temporary custody not to exceed  
14 six hours, to a secure area of a jail or other facility intended  
15 or used for the detention of adults solely for the purposes of  
16 identifying the juvenile and ascertaining his or her health and  
17 well-being and for safekeeping while awaiting transport to an  
18 appropriate juvenile placement or release to a responsible party;

19 (b) When a juvenile described in subdivision (1) or (2)  
20 of section 43-247, except for a status offender, is taken into  
21 temporary custody outside of a metropolitan statistical area and  
22 where no juvenile detention facility is reasonably available, the  
23 juvenile may be delivered, for temporary custody not to exceed  
24 twenty-four hours excluding nonjudicial days and while awaiting an  
25 initial court appearance, to a secure area of a jail or other

1 facility intended or used for the detention of adults solely for  
2 the purposes of identifying the juvenile and ascertaining his  
3 or her health and well-being and for safekeeping while awaiting  
4 transport to an appropriate juvenile placement or release to a  
5 responsible party;

6 (c) Whenever a juvenile is held in a secure area of  
7 any jail or other facility intended or used for the detention  
8 of adults, there shall be no verbal, visual, or physical contact  
9 between the juvenile and any incarcerated adult and there shall be  
10 adequate staff to supervise and monitor the juvenile's activities  
11 at all times. This subdivision shall not apply to a juvenile  
12 charged with a felony as an adult in county or district court if he  
13 or she is sixteen years of age or older;

14 (d) If a juvenile is under sixteen years of age, ~~or is~~ a  
15 juvenile as described in subdivision (3) of section 43-247 or other  
16 nonoffender, or a status offender, he or she shall not be placed  
17 within a secure area of a jail or other facility intended or used  
18 for the detention of adults;

19 (e) If, within the time limits specified in subdivision  
20 (3) (a) or (3) (b) of this section, a felony charge is filed against  
21 the juvenile as an adult in county or district court, he or she may  
22 be securely held in a jail or other facility intended or used for  
23 the detention of adults beyond the specified time limits; and

24 ~~(f) A status offender or nonoffender taken into temporary~~  
25 ~~custody shall not be held in a secure area of a jail or other~~

1 facility intended or used for the detention of adults. A status  
2 offender accused of violating a valid court order may be securely  
3 detained in a juvenile detention facility longer than twenty-four  
4 hours if he or she is afforded a detention hearing before a  
5 court within twenty-four hours, excluding nonjudicial days, and if,  
6 prior to a dispositional commitment to secure placement, a public  
7 agency, other than a court or law enforcement agency, is afforded  
8 an opportunity to review the juvenile's behavior and possible  
9 alternatives to secure placement and has submitted a written report  
10 to the court; and

11 ~~(g)~~ (f) A juvenile described in subdivision (1) or (2)  
12 of section 43-247, except for a status offender, may be held in a  
13 secure area of a jail or other facility intended or used for the  
14 detention of adults for up to six hours before and six hours after  
15 any court appearance;

16 (4) When a juvenile is taken into temporary custody  
17 pursuant to subdivision (3) of section 43-248, the peace officer  
18 shall deliver the custody of such juvenile to the Department of  
19 Health and Human Services which shall make a temporary placement of  
20 the juvenile in the least restrictive environment consistent with  
21 the best interests of the juvenile as determined by the department.  
22 The department shall supervise such placement and, if necessary,  
23 consent to any necessary emergency medical, psychological, or  
24 psychiatric treatment for such juvenile. The department shall have  
25 no other authority with regard to such temporary custody until or

1 unless there is an order by the court placing the juvenile in the  
2 custody of the department. If the peace officer delivers temporary  
3 custody of the juvenile pursuant to this subdivision, the peace  
4 officer shall make a full written report to the county attorney  
5 within twenty-four hours of taking such juvenile into temporary  
6 custody. If a court order of temporary custody is not issued  
7 within forty-eight hours of taking the juvenile into custody,  
8 the temporary custody by the department shall terminate and the  
9 juvenile shall be returned to the custody of his or her parent,  
10 guardian, custodian, or relative;

11 (5) If the peace officer takes the juvenile into  
12 temporary custody pursuant to subdivision (4) of section 43-248,  
13 the peace officer may place the juvenile at a mental health  
14 facility for evaluation and emergency treatment or may deliver  
15 the juvenile to the Department of Health and Human Services as  
16 provided in subdivision (4) of this section. At the time of the  
17 admission or turning the juvenile over to the department, the  
18 peace officer responsible for taking the juvenile into custody  
19 shall execute a written certificate as prescribed by the Department  
20 of Health and Human Services which will indicate that the peace  
21 officer believes the juvenile to be mentally ill and dangerous,  
22 a summary of the subject's behavior supporting such allegations,  
23 and that the harm described in section 71-908 is likely to occur  
24 before proceedings before a juvenile court may be invoked to  
25 obtain custody of the juvenile. A copy of the certificate shall be

1 forwarded to the county attorney. The peace officer shall notify  
2 the juvenile's parents, guardian, custodian, or relative of the  
3 juvenile's placement; or

4 (6) Beginning July 1, 2010, a juvenile taken into custody  
5 pursuant to a legal warrant of arrest shall be delivered to the  
6 probation officer who shall determine the need for detention of  
7 the juvenile as provided in section 43-260.01. If detention is  
8 not required, the juvenile may be released without bond if such  
9 release is in the best interests of the juvenile, the safety of the  
10 community is not at risk, and the court that issued the warrant is  
11 notified that the juvenile has been taken into custody.

12 In determining the appropriate temporary placement of a  
13 juvenile under this section, the peace officer shall select the  
14 placement which is least restrictive of the juvenile's freedom so  
15 long as such placement is compatible with the best interests of the  
16 juvenile and the safety of the community.

17 Sec. 13. Section 43-251.01, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 43-251.01 All placements and commitments of juveniles for  
20 evaluations or as temporary or final dispositions are subject to  
21 the following:

22 (1) No juvenile shall be confined in an adult  
23 correctional facility as a disposition of the court;

24 (2) A juvenile who is found to be a juvenile as described  
25 in subdivision (3) of section 43-247, including a juvenile

1 described in such subdivision who is in violation of a valid court  
2 order, shall not be placed in a juvenile detention facility, an  
3 adult correctional facility, the secure youth confinement facility  
4 operated by the Department of Correctional Services, or a youth  
5 rehabilitation and treatment center or committed to the Office of  
6 Juvenile Services;

7 (3) A juvenile who is found to be a juvenile as described  
8 in subdivision (1), (2), or (4) of section 43-247 shall not be  
9 assigned or transferred to an adult correctional facility or the  
10 secure youth confinement facility operated by the Department of  
11 Correctional Services; and

12 (4) A juvenile under the age of twelve years shall not  
13 be placed with or committed to a youth rehabilitation and treatment  
14 center except as provided in section 43-286.

15 Sec. 14. Section 43-253, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 43-253 (1) Upon delivery to the probation officer of a  
18 juvenile who has been taken into temporary custody under sections  
19 43-248 and 43-250 or section 6 of this act, the probation officer  
20 shall immediately investigate the situation of the juvenile and the  
21 nature and circumstances of the events surrounding his or her being  
22 taken into custody. Such investigation may be by informal means  
23 when appropriate.

24 (2) The probation officer's decision to release the  
25 juvenile from custody or place the juvenile in secure or nonsecure

1 detention shall be based upon the results of the standardized  
2 juvenile detention screening instrument described in section  
3 43-260.01.

4 (3) No juvenile who has been taken into temporary custody  
5 under subdivision (3) of section 43-250 shall be detained in  
6 any secure detention facility for longer than twenty-four hours,  
7 excluding nonjudicial days, after having been taken into custody  
8 unless such juvenile has appeared personally before a court of  
9 competent jurisdiction for a hearing to determine if continued  
10 detention is necessary. If continued secure detention is ordered,  
11 such detention shall be in a juvenile detention facility, except  
12 that a juvenile charged with a felony as an adult in county or  
13 district court may be held in an adult jail as set forth in  
14 subdivision (3)(e) of section 43-250.

15 (4) When the probation officer deems it to be in the best  
16 interests of the juvenile, the probation officer shall immediately  
17 release such juvenile to the custody of his or her parent. If  
18 the juvenile has both a custodial and a noncustodial parent and  
19 the probation officer deems that release of the juvenile to the  
20 custodial parent is not in the best interests of the juvenile,  
21 the probation officer shall, if it is deemed to be in the best  
22 interests of the juvenile, attempt to contact the noncustodial  
23 parent, if any, of the juvenile and to release the juvenile to such  
24 noncustodial parent. If such release is not possible or not deemed  
25 to be in the best interests of the juvenile, the probation officer

1 may release the juvenile to the custody of a legal guardian, a  
2 responsible relative, or another responsible person.

3 (5) The court may admit such juvenile to bail by bond in  
4 such amount and on such conditions and security as the court, in  
5 its sole discretion, shall determine, or the court may proceed as  
6 provided in section 43-254. In no case shall the court or probation  
7 officer release such juvenile if it appears that further detention  
8 or placement of such juvenile is a matter of immediate and urgent  
9 necessity for the protection of such juvenile or the person or  
10 property of another or if it appears that such juvenile is likely  
11 to flee the jurisdiction of the court.

12 Sec. 15. Section 43-254, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-254 Pending the adjudication of any case, if it  
15 appears that the need for placement or further detention exists,  
16 the juvenile may be (1) placed or detained a reasonable period of  
17 time on order of the court in the temporary custody of either the  
18 person having charge of the juvenile or some other suitable person,  
19 (2) kept in some suitable place provided by the city or county  
20 authorities, (3) placed in any proper and accredited charitable  
21 institution, (4) placed in a state institution, except any adult  
22 correctional facility, when proper facilities are available and the  
23 only local facility is a city or county jail, at the expense of  
24 the committing county on a per diem basis as determined from time  
25 to time by the head of the particular institution, or (5) placed

1 in the temporary care and custody of the Department of Health and  
2 Human Services when it does not appear that there is any need for  
3 secure detention. The court may assess the cost of such placement  
4 or detention in whole or in part to the parent of the juvenile as  
5 provided in section 43-290.

6 If there is a conflict in placement or commitment  
7 restrictions between this section and section 43-251.01, section  
8 43-251.01 controls.

9 If a juvenile has been removed from his or her parent,  
10 guardian, or custodian pursuant to subdivision (3) of section  
11 43-248, the court may enter an order continuing detention or  
12 placement upon a written determination that continuation of the  
13 juvenile in his or her home would be contrary to the health,  
14 safety, or welfare of such juvenile and that reasonable efforts  
15 were made to preserve and reunify the family if required under  
16 subsections (1) through (4) of section 43-283.01.

17 Sec. 16. Section 43-258, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 43-258 (1) Pending the adjudication of any case under the  
20 Nebraska Juvenile Code, the court may order the juvenile examined  
21 by a physician, surgeon, psychiatrist, duly authorized community  
22 mental health service program, or psychologist to aid the court  
23 in determining (a) a material allegation in the petition relating  
24 to the juvenile's physical or mental condition, (b) the juvenile's  
25 competence to participate in the proceedings, (c) the juvenile's

1 responsibility for his or her acts, or (d) whether or not to  
2 provide emergency medical treatment.

3 (2) Pending the adjudication of any case under the  
4 Nebraska Juvenile Code and after a showing of probable cause that  
5 the juvenile is within the court's jurisdiction, for the purposes  
6 of subsection (1) of this section, the court may order such  
7 juvenile to be placed in one of the facilities or institutions of  
8 the State of Nebraska. Such juvenile shall not be placed in an  
9 adult correctional facility, the secure youth confinement facility  
10 operated by the Department of Correctional Services, or a youth  
11 rehabilitation and treatment center. Any placement for evaluation  
12 may be made on a residential or nonresidential basis for a period  
13 not to exceed ~~thirty~~ twenty days except as provided by section  
14 43-415. The head of any facility or institution shall make a  
15 complete evaluation of the juvenile, including any authorized area  
16 of inquiry requested by the court. Any temporary placement of a  
17 juvenile made under this section shall be in the least restrictive  
18 environment consistent with the best interests of the juvenile and  
19 the safety of the community.

20 (3) Upon completion of the evaluation, the juvenile  
21 shall be returned to the court together with a written report  
22 of the results of the evaluation. Such report shall include an  
23 assessment of the basic needs of the juvenile and recommendations  
24 for continuous and long-term care and shall be made to effectuate  
25 the purposes in subdivision (1) of section 43-246. The juvenile

1 shall appear before the court for a hearing on the report of the  
2 evaluation results within ten days after the court receives the  
3 evaluation.

4 (4) In order to encourage the use of the procedure  
5 provided in this section, all costs incurred during the period the  
6 juvenile is being evaluated at a state facility or program funded  
7 by the Office of Juvenile Services shall be the responsibility of  
8 the state unless otherwise ordered by the court pursuant to section  
9 43-290. The county in which the case is pending shall be liable  
10 only for the cost of delivering the juvenile to the facility or  
11 institution and the cost of returning him or her to the court for  
12 disposition.

13 Sec. 17. Section 43-278, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 43-278 Except as provided in sections 43-254.01 and  
16 43-277.01, all cases filed under subdivision (3) of section 43-247  
17 shall have an adjudication hearing not more than ninety days after  
18 a petition is filed. Upon a showing of good cause, the court may  
19 continue the case beyond the ninety-day period. The court shall  
20 also review every case filed under such subdivision which has  
21 been adjudicated or transferred to it for disposition not less  
22 than once every six months. All communications, notices, orders,  
23 authorizations, and requests authorized or required in the Nebraska  
24 Juvenile Code, with the exception of any adjudication hearing,  
25 disposition hearing, or hearing to terminate parental rights, may

1 be made by ~~telephone~~ telephonic or videoconference hearing when  
2 other means of communication are impractical as determined by the  
3 court. All of the orders generated by way of a telephonic or  
4 videoconference hearing shall be recorded as if the judge were  
5 conducting a hearing on the record. Telephonic and videoconference  
6 hearings allowed under this section shall not be in conflict with  
7 section 24-734.

8           Sec. 18. Section 43-281, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           43-281 Following an adjudication of jurisdiction and  
11 prior to final disposition, the court may place the juvenile with  
12 the Office of Juvenile Services or the Department of Health and  
13 Human Services for evaluation. The office or department shall  
14 ~~make arrangements for an~~ determine the appropriate evaluation,  
15 and the office shall complete the determined evaluation. During  
16 the temporary placement for evaluation, the juvenile shall remain  
17 under the supervision of the court. Any temporary placement of a  
18 juvenile made under this section shall be in the least restrictive  
19 environment consistent with the best interests of the juvenile and  
20 the safety of the community.

21           Sec. 19. Section 43-285, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           43-285 (1) When the court awards a juvenile to the care  
24 of the Department of Health and Human Services, an association,  
25 or an individual in accordance with the Nebraska Juvenile Code,

1 the juvenile shall, unless otherwise ordered, become a ward and  
2 be subject to the guardianship of the department, association,  
3 or individual to whose care he or she is committed. Any such  
4 association and the department shall have authority, by and  
5 with the assent of the court, to determine the care, placement,  
6 medical services, psychiatric services, training, and expenditures  
7 on behalf of each juvenile committed to it. Such guardianship shall  
8 not include the guardianship of any estate of the juvenile.

9 (2) Following an adjudication hearing at which a juvenile  
10 is adjudged to be under subdivision (3) of section 43-247, the  
11 court may order the department to prepare and file with the  
12 court a proposed plan for the care, placement, services, and  
13 permanency which are to be provided to such juvenile and his  
14 or her family. The health and safety of the juvenile shall be  
15 the paramount concern in the proposed plan. The department shall  
16 include in the plan for a juvenile who is sixteen years of  
17 age or older and subject to the guardianship of the department  
18 a written proposal describing programs and services designed to  
19 assist the juvenile in acquiring independent living skills. If  
20 any other party, including, but not limited to, the guardian  
21 ad litem, parents, county attorney, or custodian, proves by a  
22 preponderance of the evidence that the department's plan is not  
23 in the juvenile's best interests, the court shall disapprove the  
24 department's plan. The court may modify the plan, order that an  
25 alternative plan be developed, or implement another plan that is

1 in the juvenile's best interests. In its order the court shall  
2 include a finding regarding the appropriateness of the programs and  
3 services described in the proposal designed to assist the juvenile  
4 in acquiring independent living skills. Rules of evidence shall not  
5 apply at the dispositional hearing when the court considers the  
6 plan that has been presented. ~~The department or any other party~~  
7 ~~may request a review of the court's order concerning the plan by a~~  
8 ~~juvenile review panel as provided in section 43-287.04.~~

9 (3) Within thirty days after an order awarding a juvenile  
10 to the care of the department, an association, or an individual  
11 and until the juvenile reaches the age of majority, the department,  
12 association, or individual shall file with the court a report  
13 stating the location of the juvenile's placement and the needs of  
14 the juvenile in order to effectuate the purposes of subdivision  
15 (1) of section 43-246. The department, association, or individual  
16 shall file a report with the court once every six months or at  
17 shorter intervals if ordered by the court or deemed appropriate  
18 by the department, association, or individual. The department,  
19 association, or individual shall file a report and notice of  
20 placement change with the court and shall send copies of the  
21 notice to all interested parties at least seven days before the  
22 placement of the juvenile is changed from what the court originally  
23 considered to be a suitable family home or institution to some  
24 other custodial situation in order to effectuate the purposes of  
25 subdivision (1) of section 43-246. The court, on its own motion

1 or upon the filing of an objection to the change by an interested  
2 party, may order a hearing to review such a change in placement  
3 and may order that the change be stayed until the completion of  
4 the hearing. Nothing in this section shall prevent the court on  
5 an ex parte basis from approving an immediate change in placement  
6 upon good cause shown. The department may make an immediate change  
7 in placement without court approval only if the juvenile is in a  
8 harmful or dangerous situation or when the foster parents request  
9 that the juvenile be removed from their home. Approval of the court  
10 shall be sought within twenty-four hours after making the change in  
11 placement or as soon thereafter as possible. ~~The department or any~~  
12 ~~other party may request a review of the change in placement by a~~  
13 ~~juvenile review panel in the manner set out in section 43-287.04.~~  
14 The department shall provide the juvenile's guardian ad litem with  
15 a copy of any report filed with the court by the department  
16 pursuant to this subsection.

17 (4) The court shall also hold a permanency hearing if  
18 required under section 43-1312.

19 (5) When the court awards a juvenile to the care of the  
20 department, an association, or an individual, then the department,  
21 association, or individual shall have standing as a party to file  
22 any pleading or motion, to be heard by the court with regard to  
23 such filings, and to be granted any review or relief requested in  
24 such filings consistent with the Nebraska Juvenile Code.

25 (6) Whenever a juvenile is in a foster care placement as

1 defined in section 43-1301, the State Foster Care Review Board may  
2 participate in proceedings concerning the juvenile as provided in  
3 section 43-1313 and notice shall be given as provided in section  
4 43-1314.

5 (7) Any written findings or recommendations of the State  
6 Foster Care Review Board or any designated local foster care  
7 review board with regard to a juvenile in a foster care placement  
8 submitted to a court having jurisdiction over such juvenile shall  
9 be admissible in any proceeding concerning such juvenile if such  
10 findings or recommendations have been provided to all other parties  
11 of record.

12 (8) Any member of the State Foster Care Review Board,  
13 any of its agents or employees, or any member of any local foster  
14 care review board participating in an investigation or making any  
15 report pursuant to the Foster Care Review Act or participating in a  
16 judicial proceeding pursuant to this section shall be immune from  
17 any civil liability that would otherwise be incurred except for  
18 false statements negligently made.

19 Sec. 20. Section 43-2,106.01, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 43-2,106.01 (1) Any final order or judgment entered by a  
22 juvenile court may be appealed to the Court of Appeals in the same  
23 manner as an appeal from district court to the Court of Appeals.  
24 The appellate court shall conduct its review ~~within the same time~~  
25 ~~and in the same manner prescribed by law for review of an order~~

1 ~~or judgment of the district court, except as provided in sections~~  
2 ~~43-287.01 to 43-287.06 and except that when appeal is taken from~~  
3 ~~a finding by the juvenile court terminating parental rights, the~~  
4 ~~cause shall be advanced for argument before the appellate court~~  
5 ~~and the appellate court shall, in order to expedite the preferred~~  
6 ~~disposition of the case and the juvenile, in an expedited manner~~  
7 ~~and shall render the judgment and write its opinion, if any, as~~  
8 ~~speedily as possible.~~

9 (2) An appeal may be taken by:

10 (a) The juvenile;

11 (b) The guardian ad litem;

12 (c) The juvenile's parent, custodian, or guardian. For  
13 purposes of this subdivision, custodian or guardian shall include,  
14 but not be limited to, the Department of Health and Human Services,  
15 an association, or an individual to whose care the juvenile has  
16 been awarded pursuant to the Nebraska Juvenile Code; or

17 (d) The county attorney or petitioner, except that in  
18 any case determining delinquency issues in which the juvenile has  
19 been placed legally in jeopardy, an appeal of such issues may only  
20 be taken by exception proceedings pursuant to sections 29-2317 to  
21 29-2319.

22 (3) In all appeals from the county court sitting as  
23 a juvenile court, the judgment of the appellate court shall  
24 be certified without cost to the juvenile court for further  
25 proceedings consistent with the determination of the appellate

1 court.

2 Sec. 21. Section 43-2,129, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 43-2,129 Sections 43-245 to 43-2,129 and sections 6 and  
5 7 of this act shall be known and may be cited as the Nebraska  
6 Juvenile Code.

7 Sec. 22. Section 43-403, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 43-403 For purposes of the Health and Human Services,  
10 Office of Juvenile Services Act:

11 (1) Aftercare means the control, supervision, and care  
12 exercised over juveniles who have been paroled;

13 (2) Committed means an order by a court committing a  
14 juvenile to the care and custody of the Office of Juvenile Services  
15 for treatment;

16 (3) Community supervision means the control, supervision,  
17 and care exercised over juveniles committed to the Office of  
18 Juvenile Services when a commitment to the level of treatment of a  
19 youth rehabilitation and treatment center has not been ordered by  
20 the court;

21 (4) Evaluation means assessment of the juvenile's social,  
22 physical, psychological, and educational development and needs,  
23 including a recommendation as to an appropriate treatment plan, in  
24 a community-based or residential evaluation program;

25 (5) Parole means a conditional release of a juvenile

1 from a youth rehabilitation and treatment center to aftercare or  
2 transferred to Nebraska for parole supervision by way of interstate  
3 compact;

4 (6) Placed for evaluation means a placement with the  
5 Office of Juvenile Services or the Department of Health and Human  
6 Services for purposes of an evaluation of the juvenile; and

7 (7) Treatment means type of supervision, care,  
8 confinement, and rehabilitative services for the juvenile.

9 Sec. 23. Section 43-406, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 43-406 The Office of Juvenile Services shall utilize:

12 (1) Risk and needs assessment instruments for use in  
13 determining the level of treatment for the juvenile;

14 (2) A case classification process to include levels of  
15 treatment defined by rules and regulations and case management  
16 standards for each level of treatment. The process shall provide  
17 for a balance of accountability, public safety, and treatment;

18 (3) Case management for all juveniles committed to the  
19 office;

20 (4) A purchase-of-care system which will facilitate the  
21 development of a statewide community-based array of care with the  
22 involvement of the private sector and the local public sector. Care  
23 services may be purchased from private providers to provide a wider  
24 diversity of services. This system shall include accessing existing  
25 Title IV-E funds of the federal Social Security Act, as amended,

1    medicaid funds, and other funding sources to support eligible  
2    community-based services. Such services developed and purchased  
3    shall include, but not be limited to, evaluation services. Services  
4    shall be offered and delivered on a regional basis;

5           (5) Community-based evaluation programs, supplemented  
6    by one or more residential evaluation programs. A residential  
7    evaluation program shall be provided in a county containing a city  
8    of the metropolitan class; ~~Community-based evaluation services~~  
9    ~~shall replace the residential evaluation services available at the~~  
10   ~~Youth Diagnostic and Rehabilitation Center by December 31, 1999,~~  
11   and

12           (6) A management information system. The system shall  
13   be a unified, interdepartmental client information system which  
14   supports the management function as well as the service function.

15           Sec. 24. Section 43-413, Reissue Revised Statutes of  
16   Nebraska, is amended to read:

17           43-413 (1) A court may, pursuant to section 43-281, place  
18   a juvenile with the Office of Juvenile Services or the Department  
19   of Health and Human Services for an appropriate evaluation as  
20   determined and carried out by the office to aid the court in the  
21   disposition.

22           (2) A juvenile convicted as an adult shall be placed with  
23   the Office of Juvenile Services for evaluation prior to sentencing  
24   as provided by subsection (3) of section 29-2204.

25           (3) All juveniles shall be evaluated prior to commitment

1 to the Office of Juvenile Services. The court shall not commit  
2 such juvenile to the temporary custody of the Office of Juvenile  
3 Services prior to disposition. The office may place a juvenile in  
4 residential or nonresidential community-based evaluation services  
5 for purposes of an appropriate evaluation as determined by the  
6 office to assist the court in determining the initial level of  
7 treatment for the juvenile.

8 (4) During any period of detention or evaluation prior to  
9 disposition:

10 (a) Except as provided in subdivision (4)(b) of this  
11 section, the county in which the case is pending is responsible  
12 for all detention costs incurred before and after an evaluation  
13 period prior to disposition, the cost of delivering the juvenile  
14 to the facility or institution for an evaluation, and the cost of  
15 returning the juvenile to the court for disposition; and

16 (b) The state is responsible for (i) the costs incurred  
17 during an evaluation unless otherwise ordered by the court pursuant  
18 to section 43-290 and (ii) the preevaluation detention costs for  
19 any days over the first ten days from the date the evaluation is  
20 ordered by the court.

21 (5) The Office of Juvenile Services and the Department of  
22 Health and Human Services are not responsible for predisposition  
23 costs except as provided in subdivision (4)(b) of this section.

24 Sec. 25. Section 43-415, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           43-415 A juvenile placed for evaluation with the Office  
2 of Juvenile Services shall be returned to the court upon the  
3 completion of the evaluation or at the end of ~~thirty~~ twenty days,  
4 whichever comes first. When the office finds that an extension  
5 of the ~~thirty-day~~ twenty-day period is necessary to complete the  
6 evaluation, the court may order an extension not to exceed an  
7 additional ~~thirty~~ five days. The court shall hold a hearing within  
8 five days after the evaluation is completed and returned to the  
9 court by the office.

10           Sec. 26. Section 43-2404.02, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           43-2404.02 (1) There is created a separate and distinct  
13 budgetary program within the commission to be known as the County  
14 Juvenile Services Aid Program. Funding acquired from participation  
15 in the federal act, state General Funds, and funding acquired  
16 from other sources which may be used for purposes consistent with  
17 the Juvenile Services Act and the federal act shall be used to  
18 aid counties in the establishment and provision of community-based  
19 services for accused and adjudicated juvenile offenders and to  
20 increase capacity for community-based services to juveniles.

21           (2) The annual General Fund appropriation to the County  
22 Juvenile Services Aid Program shall be apportioned to the counties  
23 as aid in accordance with a formula established in rules and  
24 regulations adopted and promulgated by the commission. The formula  
25 shall be based on the total number of residents per county who

1 are twelve years of age through eighteen years of age and other  
2 relevant factors as determined by the commission. The commission  
3 may require a local match of up to forty percent from counties  
4 receiving aid under such program. Any local expenditures for  
5 community-based programs for juveniles may be applied toward such  
6 match requirement.

7 (3) Funds provided to counties under the County Juvenile  
8 Services Aid Program shall be used exclusively to assist counties  
9 in implementation and operation of programs or services identified  
10 in their comprehensive juvenile services plan, including, but not  
11 limited to, programs for assessment and evaluation, prevention of  
12 delinquent behavior, diversion, shelter care, intensive juvenile  
13 probation services, restitution, family support services, and  
14 family group conferencing. In distributing funds provided under  
15 the County Juvenile Services Aid Program, counties shall prioritize  
16 programs and services that will reduce the juvenile detention  
17 population. No funds appropriated or distributed under the County  
18 Juvenile Services Aid Program shall be used for construction of  
19 secure detention facilities, secure youth treatment facilities,  
20 or secure youth confinement facilities. Aid received under this  
21 section shall not be used for capital construction or the lease or  
22 acquisition of facilities and shall not be used to replace existing  
23 funding for programs or services. Any funds not distributed to  
24 counties under this subsection shall be retained by the commission  
25 to be distributed on a competitive basis under the County Juvenile

1 Services Aid Program.

2 (4) Any county receiving funding under the County  
3 Juvenile Services Aid Program shall file an annual report as  
4 required by rules and regulations adopted and promulgated by the  
5 commission. The report shall include, but not be limited to,  
6 information on the total number of juveniles served, the units of  
7 service provided, a listing of the county's annual juvenile justice  
8 budgeted and actual expenditures, and a listing of expenditures for  
9 detention, residential treatment, and nonresidential treatment.

10 (5) The commission shall report annually to the Governor  
11 and the Legislature on the distribution and use of funds  
12 appropriated under the County Juvenile Services Aid Program.

13 (6) The commission shall adopt and promulgate rules and  
14 regulations to implement this section.

15 Sec. 27. Section 77-3442, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 77-3442 (1) Property tax levies for the support of local  
18 governments for fiscal years beginning on or after July 1, 1998,  
19 shall be limited to the amounts set forth in this section except as  
20 provided in section 77-3444.

21 (2)(a) Except as provided in subdivision (2)(e) of this  
22 section, school districts and multiple-district school systems,  
23 except learning communities and school districts that are members  
24 of learning communities, may levy a maximum levy of one dollar and  
25 five cents per one hundred dollars of taxable valuation of property

1 subject to the levy.

2 (b) For each fiscal year, learning communities may levy  
3 a maximum levy for the general fund budgets of member school  
4 districts of ninety-five cents per one hundred dollars of taxable  
5 valuation of property subject to the levy. The proceeds from the  
6 levy pursuant to this subdivision shall be distributed pursuant to  
7 section 79-1073.

8 (c) Except as provided in subdivision (2)(e) of this  
9 section, for each fiscal year, school districts that are members  
10 of learning communities may levy for purposes of such districts'  
11 general fund budget and special building funds a maximum combined  
12 levy of the difference of one dollar and five cents on each one  
13 hundred dollars of taxable property subject to the levy minus  
14 the learning community levies pursuant to subdivisions (2)(b) and  
15 (2)(g) of this section for such learning community.

16 (d) Excluded from the limitations in subdivisions (2)(a)  
17 and (2)(c) of this section are amounts levied to pay for  
18 sums agreed to be paid by a school district to certificated  
19 employees in exchange for a voluntary termination of employment  
20 and amounts levied to pay for special building funds and sinking  
21 funds established for projects commenced prior to April 1, 1996,  
22 for construction, expansion, or alteration of school district  
23 buildings. For purposes of this subsection, commenced means any  
24 action taken by the school board on the record which commits  
25 the board to expend district funds in planning, constructing, or

1 carrying out the project.

2 (e) Federal aid school districts may exceed the maximum  
3 levy prescribed by subdivision (2)(a) or (2)(c) of this section  
4 only to the extent necessary to qualify to receive federal aid  
5 pursuant to Title VIII of Public Law 103-382, as such title existed  
6 on September 1, 2001. For purposes of this subdivision, federal  
7 aid school district means any school district which receives ten  
8 percent or more of the revenue for its general fund budget from  
9 federal government sources pursuant to Title VIII of Public Law  
10 103-382, as such title existed on September 1, 2001.

11 (f) For school fiscal year 2002-03 through school fiscal  
12 year 2007-08, school districts and multiple-district school systems  
13 may, upon a three-fourths majority vote of the school board of  
14 the school district, the board of the unified system, or the  
15 school board of the high school district of the multiple-district  
16 school system that is not a unified system, exceed the maximum  
17 levy prescribed by subdivision (2)(a) of this section in an amount  
18 equal to the net difference between the amount of state aid that  
19 would have been provided under the Tax Equity and Educational  
20 Opportunities Support Act without the temporary aid adjustment  
21 factor as defined in section 79-1003 for the ensuing school fiscal  
22 year for the school district or multiple-district school system  
23 and the amount provided with the temporary aid adjustment factor.  
24 The State Department of Education shall certify to the school  
25 districts and multiple-district school systems the amount by which

1 the maximum levy may be exceeded for the next school fiscal year  
2 pursuant to this subdivision (f) of this subsection on or before  
3 February 15 for school fiscal years 2004-05 through 2007-08.

4 (g) For each fiscal year, learning communities may levy a  
5 maximum levy of two cents on each one hundred dollars of taxable  
6 property subject to the levy for special building funds for member  
7 school districts. The proceeds from the levy pursuant to this  
8 subdivision shall be distributed pursuant to section 79-1073.01.

9 (h) For each fiscal year, learning communities may levy a  
10 maximum levy of five cents on each one hundred dollars of taxable  
11 property subject to the levy (i) for elementary learning center  
12 facilities and approved by the learning community coordinating  
13 council pursuant to section 79-2111, (ii) for up to fifty percent  
14 of the estimated cost for capital projects approved by the learning  
15 community coordinating council pursuant to section 79-2111, and  
16 (iii) for the purpose of awarding grants pursuant to section 35 of  
17 this act.

18 (3) Community colleges may levy a maximum levy calculated  
19 pursuant to the Community College Foundation and Equalization Aid  
20 Act on each one hundred dollars of taxable property subject to the  
21 levy.

22 (4) (a) Natural resources districts may levy a maximum  
23 levy of four and one-half cents per one hundred dollars of taxable  
24 valuation of property subject to the levy.

25 (b) Natural resources districts shall also have the power

1 and authority to levy a tax equal to the dollar amount by which  
2 their restricted funds budgeted to administer and implement ground  
3 water management activities and integrated management activities  
4 under the Nebraska Ground Water Management and Protection Act  
5 exceed their restricted funds budgeted to administer and implement  
6 ground water management activities and integrated management  
7 activities for FY2003-04, not to exceed one cent on each one  
8 hundred dollars of taxable valuation annually on all of the taxable  
9 property within the district.

10 (c) In addition, natural resources districts located in  
11 a river basin, subbasin, or reach that has been determined to  
12 be fully appropriated pursuant to section 46-714 or designated  
13 as overappropriated pursuant to section 46-713 by the Department  
14 of Natural Resources shall also have the power and authority to  
15 levy a tax equal to the dollar amount by which their restricted  
16 funds budgeted to administer and implement ground water management  
17 activities and integrated management activities under the Nebraska  
18 Ground Water Management and Protection Act exceed their restricted  
19 funds budgeted to administer and implement ground water management  
20 activities and integrated management activities for FY2005-06, not  
21 to exceed three cents on each one hundred dollars of taxable  
22 valuation on all of the taxable property within the district for  
23 fiscal year 2006-07 and each fiscal year thereafter through fiscal  
24 year 2011-12.

25 (5) Any educational service unit authorized to levy a

1 property tax pursuant to section 79-1225 may levy a maximum levy of  
2 one and one-half cents per one hundred dollars of taxable valuation  
3 of property subject to the levy.

4 (6) (a) Incorporated cities and villages which are not  
5 within the boundaries of a municipal county may levy a maximum levy  
6 of forty-five cents per one hundred dollars of taxable valuation  
7 of property subject to the levy plus an additional five cents per  
8 one hundred dollars of taxable valuation to provide financing for  
9 the municipality's share of revenue required under an agreement  
10 or agreements executed pursuant to the Interlocal Cooperation Act  
11 or the Joint Public Agency Act. The maximum levy shall include  
12 amounts levied to pay for sums to support a library pursuant  
13 to section 51-201, museum pursuant to section 51-501, visiting  
14 community nurse, home health nurse, or home health agency pursuant  
15 to section 71-1637, or statue, memorial, or monument pursuant to  
16 section 80-202.

17 (b) Incorporated cities and villages which are within the  
18 boundaries of a municipal county may levy a maximum levy of ninety  
19 cents per one hundred dollars of taxable valuation of property  
20 subject to the levy. The maximum levy shall include amounts paid  
21 to a municipal county for county services, amounts levied to pay  
22 for sums to support a library pursuant to section 51-201, a museum  
23 pursuant to section 51-501, a visiting community nurse, home health  
24 nurse, or home health agency pursuant to section 71-1637, or a  
25 statue, memorial, or monument pursuant to section 80-202.

1           (7) Sanitary and improvement districts which have been in  
2 existence for more than five years may levy a maximum levy of forty  
3 cents per one hundred dollars of taxable valuation of property  
4 subject to the levy, and sanitary and improvement districts which  
5 have been in existence for five years or less shall not have  
6 a maximum levy. Unconsolidated sanitary and improvement districts  
7 which have been in existence for more than five years and are  
8 located in a municipal county may levy a maximum of eighty-five  
9 cents per hundred dollars of taxable valuation of property subject  
10 to the levy.

11           (8) Counties may levy or authorize a maximum levy of  
12 fifty cents per one hundred dollars of taxable valuation of  
13 property subject to the levy, except that five cents per one  
14 hundred dollars of taxable valuation of property subject to the  
15 levy may only be levied to provide financing for the county's  
16 share of revenue required under an agreement or agreements executed  
17 pursuant to the Interlocal Cooperation Act or the Joint Public  
18 Agency Act. The maximum levy shall include amounts levied to pay  
19 for sums to support a library pursuant to section 51-201 or museum  
20 pursuant to section 51-501. The county may allocate up to fifteen  
21 cents of its authority to other political subdivisions subject  
22 to allocation of property tax authority under subsection (1) of  
23 section 77-3443 and not specifically covered in this section to  
24 levy taxes as authorized by law which do not collectively exceed  
25 fifteen cents per one hundred dollars of taxable valuation on any

1 parcel or item of taxable property. The county may allocate to  
2 one or more other political subdivisions subject to allocation  
3 of property tax authority by the county under subsection (1) of  
4 section 77-3443 some or all of the county's five cents per one  
5 hundred dollars of valuation authorized for support of an agreement  
6 or agreements to be levied by the political subdivision for the  
7 purpose of supporting that political subdivision's share of revenue  
8 required under an agreement or agreements executed pursuant to the  
9 Interlocal Cooperation Act or the Joint Public Agency Act. If an  
10 allocation by a county would cause another county to exceed its  
11 levy authority under this section, the second county may exceed  
12 the levy authority in order to levy the amount allocated. Property  
13 tax levies for costs of reassumption of the assessment function  
14 pursuant to section 77-1340 or 77-1340.04 are not included in the  
15 levy limits established in this subsection for fiscal years 2010-11  
16 through 2013-14.

17 (9) Municipal counties may levy or authorize a maximum  
18 levy of one dollar per one hundred dollars of taxable valuation  
19 of property subject to the levy. The municipal county may allocate  
20 levy authority to any political subdivision or entity subject to  
21 allocation under section 77-3443.

22 (10) Property tax levies for judgments, except judgments  
23 or orders from the Commission of Industrial Relations, obtained  
24 against a political subdivision which require or obligate a  
25 political subdivision to pay such judgment, to the extent such

1 judgment is not paid by liability insurance coverage of a  
2 political subdivision, for preexisting lease-purchase contracts  
3 approved prior to July 1, 1998, for bonded indebtedness approved  
4 according to law and secured by a levy on property except as  
5 provided in section 44-4317 for bonded indebtedness issued by  
6 educational service units and school districts, and for payments by  
7 a public airport to retire interest-free loans from the Department  
8 of Aeronautics in lieu of bonded indebtedness at a lower cost to  
9 the public airport are not included in the levy limits established  
10 by this section.

11 (11) The limitations on tax levies provided in this  
12 section are to include all other general or special levies  
13 provided by law. Notwithstanding other provisions of law, the  
14 only exceptions to the limits in this section are those provided by  
15 or authorized by sections 77-3442 to 77-3444.

16 (12) Tax levies in excess of the limitations in this  
17 section shall be considered unauthorized levies under section  
18 77-1606 unless approved under section 77-3444.

19 (13) For purposes of sections 77-3442 to 77-3444,  
20 political subdivision means a political subdivision of this state  
21 and a county agricultural society.

22 (14) For school districts that file a binding resolution  
23 on or before May 9, 2008, with the county assessors, county clerks,  
24 and county treasurers for all counties in which the school district  
25 has territory pursuant to subsection (7) of section 79-458, if the

1 combined levies, except levies for bonded indebtedness approved by  
2 the voters of the school district and levies for the refinancing  
3 of such bonded indebtedness, are in excess of the greater of (a)  
4 one dollar and twenty cents per one hundred dollars of taxable  
5 valuation of property subject to the levy or (b) the maximum  
6 levy authorized by a vote pursuant to section 77-3444, all school  
7 district levies, except levies for bonded indebtedness approved by  
8 the voters of the school district and levies for the refinancing of  
9 such bonded indebtedness, shall be considered unauthorized levies  
10 under section 77-1606.

11           Sec. 28. Section 79-209, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           79-209 (1)(a) In all school districts in this state, if  
14 any superintendent, principal, teacher, or member of the school  
15 board who knows of any violation of section 79-201 on the part of  
16 knows that any child of school age, his or her parent, the person  
17 in actual or legal control of such child, or any other person  
18 has been absent for five school days or the hourly equivalent  
19 thereof in a semester, such superintendent, principal, teacher, or  
20 school board member shall, pursuant to procedures adopted by the  
21 school district, cause the school social worker, or other person  
22 designated by the school administration if such school does not  
23 have a school social worker, to make direct personal contact,  
24 except as provided in subdivision (1)(b) of this section, with  
25 the parent or person in actual or legal control of such child

1 to discuss the absences of such child and to offer the services  
2 described in subdivisions (2)(a) through (f) of this section.  
3 If after such contact such child is absent for five additional  
4 school days or the hourly equivalent thereof in such semester,  
5 the school social worker, or other person designated by the  
6 school administration if such school does not have a school social  
7 worker, shall make direct personal contact, except as provided in  
8 subdivision (1)(b) of this section, with such parent or person in  
9 actual or legal control of such child for the same purpose. If  
10 after such second contact such child is absent for five additional  
11 school days or the hourly equivalent thereof in such semester,  
12 the school social worker, or other person designated by the school  
13 administration if such school does not have a school social worker,  
14 shall again make direct personal contact, except as provided in  
15 subdivision (1)(b) of this section, with such parent or person in  
16 actual or legal control of such child for the same purpose. If such  
17 child does not return to regular attendance within three days after  
18 such third contact under this section, the school social worker, or  
19 other person designated by the school administration if such school  
20 does not have a school social worker, shall within three days  
21 report such violation to the attendance officer of the school, who  
22 shall investigate the case. When of his or her personal knowledge,  
23 by report or complaint from any resident of the district, or by  
24 report or complaint as provided in this section, the attendance  
25 officer believes that any child is unlawfully absent from school,

1 the attendance officer shall immediately investigate.

2 (b) If parent or person in actual or legal control of a  
3 child enrolled in a school district which is part of a learning  
4 community has been contacted pursuant to subdivision (1) (a) of this  
5 section, the parent may contact the learning community coordinating  
6 council and request that the council contact school district  
7 authorities on behalf of the parent and child and provide mediation  
8 on the issue of the child's absences and services to be rendered  
9 pursuant to subsection (2) of this section.

10 All school districts shall have a written policy on  
11 excessive absenteeism. The policy shall state the number of  
12 absences or the hourly equivalent upon the occurrence of which  
13 (2) For a child of school age whose parent or person in actual or  
14 legal control of such child has been contacted by the school social  
15 worker, or other person designated by the school administration  
16 if such school does not have a school social worker, pursuant  
17 to subsection (1) of this section, the school shall render all  
18 services in its power to compel such child to attend some public,  
19 private, denominational, or parochial school, which the person  
20 having control of the child shall designate, in an attempt to  
21 remediate the child's truant behavior. The number of absences  
22 in the policy shall not exceed five days per quarter or the  
23 hourly equivalent. School districts may use excused and unexcused  
24 absences for purposes of the policy. Any intervention conducted by  
25 the school under this section shall include a student assistance

1 team meeting and be accompanied by an absence prevention plan.

2 The school shall document any parent contacts or interventions to

3 address the child's truant behavior. Such services shall include,

4 but need not be limited to:

5           ~~(1)~~ (a) One or more meetings between a school attendance  
6 officer, school social worker or other person designated by the  
7 school administration if such school does not have a school  
8 social worker, the child's parent or guardian, and the child, if  
9 necessary, to report and to attempt to solve the truancy problem;  
10  ~~unless the officer or worker has documented the refusal of the~~  
11  ~~parent or guardian to participate in such meetings;~~

12           ~~(2)~~ (b) Educational counseling to determine whether  
13 curriculum changes, including, but not limited to, enrolling the  
14 child in an alternative education program that meets the specific  
15 educational and behavioral needs of the child, would help solve the  
16 truancy problem;

17           ~~(3)~~ (c) Educational evaluation, which may include  
18 a psychological evaluation, to assist in determining the  
19 specific condition, if any, contributing to the truancy problem,  
20 supplemented by specific efforts by the school to help remedy any  
21 condition diagnosed; ~~and~~

22           ~~(4)~~ (d) Investigation of the truancy problem by the  
23 school social worker, or if such school does not have a school  
24 social worker, by another person designated by the administration,  
25 to identify conditions which may be contributing to the truancy

1 problem. If services for the child and his or her family are  
2 determined to be needed, the school social worker or other person  
3 performing the investigation shall meet with the parent or guardian  
4 and the child to discuss any referral to appropriate community  
5 agencies for economic services, family or individual counseling,  
6 or other services required to remedy the conditions that are  
7 contributing to the truancy problem;—

8 (e) Mediation pursuant to section 30 of this act; and  
9 (f) Referral to the resource and re-engagement center  
10 established pursuant to section 79-2104.

11 For purposes of this subsection, student assistance team  
12 means a group of persons, including, but not limited to, at  
13 least one social worker, utilizing problem-solving and intervention  
14 strategies to assist a teacher in the provision of general  
15 education.

16 (3) If the child continues to be or becomes habitually  
17 truant, the attendance officer shall serve a written notice to the  
18 person violating section 79-201, warning him or her to comply with  
19 its provisions. If within one week after the time such notice is  
20 given such person is still violating the section, the attendance  
21 officer shall file a report with the county attorney of the county  
22 in which such person resides. All school districts shall have  
23 a written policy describing notification Notification of habitual  
24 truancy to the county attorney. The shall take place after the  
25 school completes the procedures described in subsection (1) of this

1 ~~section. number of absences in the policy shall not exceed twenty~~  
2 ~~days cumulative per year or the hourly equivalent. School districts~~  
3 ~~may use excused and unexcused absences for purposes of the policy.~~  
4 The county attorney may file a complaint against such person before  
5 the judge of the county court of the county in which such person  
6 resides charging such person with violation of section 79-201.  
7 If after such notice has been sent to any person violating such  
8 section such person again violates the same section, no written  
9 notice shall be required but a complaint may be filed at once.

10           Sec. 29. Section 79-210, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           79-210 Any person violating the provisions of sections  
13 79-201 to 79-209:

14           (1) For a first offense, shall be guilty of an  
15 infraction, shall receive a citation, and shall be fined three  
16 hundred dollars, which fine may be waived if he or she participates  
17 in mediation pursuant to section 30 of this act or in parent  
18 education provided by the resource and re-engagement center  
19 established pursuant to section 79-2104;

20           (2) For a second offense, shall be guilty of an  
21 infraction, shall receive a citation, and shall be fined five  
22 hundred dollars, which fine may be waived if he or she participates  
23 in mediation pursuant to section 30 of this act or in parent  
24 education provided by the resource and re-engagement center  
25 established pursuant to section 79-2104; and

1           (3) For a third or subsequent offense, shall be guilty of  
2 a Class III misdemeanor.

3           Citations under this section shall be issued as provided  
4 in section 30 of this act and shall contain notice of the waiver  
5 provisions of subdivisions (1) and (2) of this section.

6           Sec. 30. (1) If the parent or person who has legal or  
7 actual charge or control of a child who is truant as provided in  
8 sections 79-201 to 79-209 refuses to accept the school's attempt  
9 to assure the child's attendance pursuant to such sections or if  
10 the school's attempt to assure the child's attendance is otherwise  
11 unsuccessful, the school district attendance officer shall refer  
12 the matter to the county attorney. The county attorney shall issue  
13 a citation pursuant to section 79-210 to the parent or person who  
14 has legal or actual charge or control of the child. The citation  
15 shall include statements that (a) the fine imposed pursuant to  
16 such section will be waived if such parent or person chooses to  
17 participate in mediation or in parent education provided by the  
18 resource and re-engagement center established pursuant to section  
19 79-2104 and (b) if such parent or person chooses to participate in  
20 mediation, he or she shall contact the county court clerk for a  
21 list of approved mediators.

22           (2) If a person receiving a citation under section 79-210  
23 chooses to participate in mediation as provided in this section,  
24 he or she shall contact the county court of the county in which  
25 the citation was issued to obtain a list of approved mediators.

1 Such person and the school attendance officer together shall select  
2 a mediator from such list. Mediation services may be provided by  
3 the Office of Dispute Resolution or by any other mediator on such  
4 list. The mediator selected shall contact the school, the person  
5 receiving the citation, and any other person the mediator deems  
6 appropriate in the matter and arrange meeting dates and times for  
7 discussion of the child's truancy. In a school district within a  
8 learning community encompassing a city of the metropolitan class,  
9 mediation shall take place at an elementary learning center in  
10 the learning community, whether the child is in elementary school,  
11 middle school, or high school. In any other school district,  
12 the mediator shall establish a location for mediation which is  
13 convenient for the parties. The mediator shall attempt to ascertain  
14 the cause of the child's truancy, attempt to cause the parties  
15 to arrive at an agreement relative to the child's attendance, and  
16 initiate referrals to any agencies or counseling that the mediator  
17 believes to be appropriate under the circumstances.

18 (3) If the parties reach an agreement, the agreement  
19 shall be reduced to writing and signed by the school attendance  
20 officer, the child's parent or person who has legal or actual  
21 charge or control of the child, and the child. The mediator, the  
22 school attendance officer, and the parent or person who has legal  
23 or actual charge or control of the child shall each receive a copy  
24 of the agreement which shall set forth the settlement of the issues  
25 and future responsibilities of each party.

1           (4) The school district shall be responsible for  
2 monitoring any agreements arrived at through mediation.

3           (5) The parent or person who has legal or actual charge  
4 or control of the child and the school shall pay the cost of  
5 mediation services. If the mediator selected is associated with an  
6 approved mediation center under the Dispute Resolution Act, payment  
7 shall be based on the sliding scale of fees developed pursuant  
8 to section 25-2908. A parent or person who has legal or actual  
9 charge or control of a child shall not be denied the services of a  
10 mediator solely because of inability to pay his or her portion of  
11 the cost of mediation services.

12           (6) If a parent or person who has legal or actual  
13 charge or control of the child initially chooses to participate  
14 in mediation but then fails to carry out the requirements of this  
15 section, he or she shall pay the fine required by section 79-210.

16           Sec. 31. Section 79-527, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           79-527 (1) The superintendent or head administrator of a  
19 public school district or a nonpublic school system shall annually  
20 report to the Commissioner of Education in such detail and on  
21 such date as required by the commissioner the number of students  
22 who have dropped out of school or were for any reason suspended,  
23 expelled, or excluded from school during the year. Such report  
24 shall also include the number of truant students and strategies  
25 developed by the district to address truancy. School districts

1 that are members of learning communities shall also provide the  
2 learning community coordinating council with a copy of the report  
3 to the commissioner on or before the date the report is due  
4 to the commissioner. Each learning community coordinating council  
5 shall annually report to the commissioner in such detail and on  
6 such date as required by the commissioner the number of students  
7 who have dropped out of school or were for any reason suspended,  
8 expelled, or excluded from school during the year for all of the  
9 member school districts. Such report shall also include the number  
10 of truant students and strategies developed by the districts to  
11 address truancy. The due date for reports from learning communities  
12 shall be established by the commissioner to provide a reasonable  
13 period of time for the learning community coordinating councils to  
14 compile the information from the member school district reports.

15 (2) The superintendent or head administrator of a public  
16 school district or a nonpublic school system shall report to  
17 the Commissioner of Education within forty-eight hours of any  
18 suspension or expulsion of a student, of referral of a student to  
19 the office of the county attorney for truancy, or if the district  
20 or system contacts law enforcement officials relative to a student  
21 enrolled in the district or system. School districts that are  
22 members of learning communities shall also provide the learning  
23 community coordinating council with a copy of such reports at the  
24 time they are filed with the commissioner.

25 Sec. 32. (1) The At-Risk Students Task Force is created.

1 The task force shall consist of:

2 (a) The probation administrator or his or her designee;

3 (b) The Commissioner of Education or his or her designee;

4 (c) The chief executive officer of the Department of

5 Health and Human Services or his or her designee;

6 (d) The superintendent of a school district which is part

7 of a learning community, selected by the Commissioner of Education,

8 or such superintendent's designee;

9 (e) The superintendent of a school district which is

10 not part of a learning community, selected by the Commissioner of

11 Education, or such superintendent's designee; and

12 (f) A representative of the University of Nebraska

13 Medical Center College of Public Health.

14 (2) Members of the task force shall be reimbursed for

15 their actual and necessary expenses incurred in the performance of

16 their duties as members of such task force as provided in sections

17 81-1174 to 81-1177.

18 (3) The task force shall study the data contained in

19 the reports required by subsection (2) of section 79-527 to

20 identify the school districts, and the school buildings within such

21 districts, having the most at-risk students. In consultation with

22 such districts, the task force shall develop recommendations on how

23 to enhance learning opportunities for at-risk students and reduce

24 the at-risk student population. The task force shall report to the

25 Legislature on or before December 31, 2010.

1           Sec. 33. Section 79-2104, Revised Statutes Supplement,  
2 2009, is amended to read:

3           79-2104 A learning community coordinating council shall  
4 have the authority to:

5           (1) Levy a common levy for the general funds of member  
6 school districts pursuant to sections 77-3442 and 79-1073;

7           (2) Levy a common levy for the special building funds  
8 of member school districts pursuant to sections 77-3442 and  
9 79-1073.01;

10           (3) Levy for capital projects approved by the learning  
11 community coordinating council pursuant to sections 77-3442 and  
12 79-2111;

13           (4) Collect, analyze, and report data and information,  
14 including, but not limited to, information provided by a school  
15 district pursuant to subsection (5) of section 79-201;

16           (5) Approve focus schools and focus programs to be  
17 operated by member school districts;

18           (6) Adopt, approve, and implement a diversity plan which  
19 shall include open enrollment and may include focus schools, focus  
20 programs, magnet schools, and pathways pursuant to section 79-2110;

21           (7) Administer the open enrollment provisions in section  
22 79-2110 for the learning community as part of a diversity plan  
23 developed by the council to provide educational opportunities which  
24 will result in increased diversity in schools across the learning  
25 community;

1           (8) Annually conduct school fairs to provide students and  
2 parents the opportunity to explore the educational opportunities  
3 available at each school in the learning community and develop  
4 other methods for encouraging access to such information and  
5 promotional materials;

6           (9) Develop and approve reorganization plans for  
7 submission pursuant to the Learning Community Reorganization Act;

8           (10) Establish and administer elementary learning centers  
9 through achievement subcouncils pursuant to sections 79-2112 to  
10 79-2114;

11           (11) Administer the learning community funds distributed  
12 to the learning community pursuant to section 79-2111;

13           (12) Approve or disapprove poverty plans and limited  
14 English proficiency plans for member school districts through  
15 achievement subcouncils established under section 79-2117;

16           (13) Establish a procedure for receiving community input  
17 and complaints regarding the learning community; ~~and~~

18           (14) Establish a procedure to assist parents, citizens,  
19 and member school districts in accessing an approved center  
20 pursuant to the Dispute Resolution Act to resolve disputes  
21 involving member school districts or the learning community. Such  
22 procedure may include payment by the learning community for some  
23 mediation services; ~~and-~~

24           (15) Establish a resource and re-engagement center in  
25 partnership with school districts and educational service units to

1 assist with re-engagement into the educational system of students  
2 who have dropped out of school or who are out of school due  
3 to suspension, expulsion, involvement with the juvenile justice  
4 system, or exclusion from school for any other reason. The goal  
5 of such center is to improve the academic achievement level of  
6 such students. Such center shall provide services to help students  
7 re-enter school, including, but not limited to: Individualized  
8 assessment; school building and grade-level placement; literacy and  
9 numeracy education; credit recovery; parent education, behavioral  
10 and mental health services; and linkage to community services and  
11 resources.

12           Sec. 34. Section 79-2111, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           79-2111 (1) A learning community may levy a maximum levy  
15 pursuant to subdivision (2)(h) of section 77-3442 for (a) the  
16 purchase, construction, or remodeling of elementary learning center  
17 facilities, (b) and up to fifty percent of the estimated costs  
18 for capital projects approved pursuant to this section, and (c)  
19 awarding grants pursuant to section 35 of this act. The proceeds  
20 from such levy shall be used for elementary learning center  
21 facilities, and for one-time reductions of the bonded indebtedness  
22 required for approved projects up to fifty percent of the estimated  
23 cost of the approved project, and for such grants. The funds used  
24 for reductions of bonded indebtedness shall be transferred to the  
25 school district for which the project was approved and shall be

1 deposited in such school district's special building fund for use  
2 on such project.

3 (2) The learning community may approve pursuant to this  
4 section funding for capital projects which will include the  
5 purchase, construction, or remodeling of facilities for a focus  
6 school or program designed to meet the requirements of section  
7 79-769. Such approval shall include an estimated cost for the  
8 project and shall state the amount that will be provided by the  
9 learning community for such project.

10 (3) If, within the ten years following receipt of the  
11 funding for a capital project pursuant to this section, a school  
12 district receiving such funding uses the facility purchased,  
13 constructed, or remodeled with such funding for purposes other  
14 than those stated to qualify for the funds, the school district  
15 shall repay such funds to the learning community with interest at  
16 the rate prescribed in section 45-104.02 accruing from the date  
17 the funds were transferred to the school district's building fund  
18 as of the last date the facility was used for such purpose as  
19 determined by the learning community coordinating council or the  
20 date that the learning community coordinating council determines  
21 that the facility will not be used for such purpose or that  
22 such facility will not be purchased, constructed, or remodeled  
23 for such purpose. Interest shall continue to accrue on outstanding  
24 balances until the repayment has been completed. The remaining  
25 terms of repayment shall be determined by the learning community

1 coordinating council. The learning community coordinating council  
2 may waive such repayment if the facility is used for a different  
3 focus school or program for a period of time that will result in  
4 the use of the facility for qualifying purposes for a total of at  
5 least ten years.

6           Sec. 35. A learning community coordinating council may  
7 award grants to nonprofit organizations to provide services to  
8 assist with re-engagement into the educational system of students  
9 who have dropped out of school or students who are out of  
10 school due to suspension, expulsion, involvement with the juvenile  
11 justice system, or exclusion from school for any other reason.  
12 The council shall adopt procedures for the awarding of such grants  
13 which may include, but need not be limited to, the types of  
14 nonprofit organizations which are eligible to apply, the method of  
15 identifying and contacting students eligible to receive services,  
16 the types of services to be offered, the qualifications required  
17 of the persons who will be providing such services, and such other  
18 matters as the council deems appropriate.

19           Sec. 36. The Revisor of Statutes shall assign section 32  
20 of this act within Chapter 79, article 5, and shall assign section  
21 35 of this act within Chapter 79, article 21.

22           Sec. 37. Original sections 24-313, 25-2728, 29-2258,  
23 29-2269, 43-246, 43-247, 43-248, 43-251.01, 43-253, 43-254, 43-258,  
24 43-278, 43-281, 43-285, 43-2,106.01, 43-2,129, 43-403, 43-406,  
25 43-413, 43-415, 43-2404.02, 77-3442, 79-209, 79-210, 79-527,

LB 800

LB 800

1 and 79-2111, Reissue Revised Statutes of Nebraska, and sections  
2 43-245, 43-250, and 79-2104, Revised Statutes Supplement, 2009, are  
3 repealed.

4           Sec. 38. The following sections are outright repealed:  
5 Sections 43-287.01, 43-287.02, 43-287.03, 43-287.04, 43-287.05, and  
6 43-287.06, Reissue Revised Statutes of Nebraska.